



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/625,778	07/24/2003	Yoshinari Morimoto	116571	8193
25944	7590	10/29/2009	EXAMINER	
OLIFF & BERRIDGE, PLC			HUFFMAN, JULIAN D	
P.O. BOX 320850				
ALEXANDRIA, VA 22320-4850			ART UNIT	PAPER NUMBER
			2853	
			MAIL DATE	DELIVERY MODE
			10/29/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.



## UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND  
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE

October 28, 2009

OLIFF & BERRIDGE, PLC  
P.O. BOX 320850  
ALEXANDRIA, VA 22320-4850  
US

Dear Sir/Madam,

Your refund request for 10625778 in the amount of \$810.00 has been denied. Applicant's argument has been considered but not found persuasive. Accordingly the request for refund remains denied.

Applicant argues that the question is whether the amendment placing claim 4 in independent form is whether the amendment places the application in condition for allowance. Applicant's argument is misplaced since amendment practice after the Board of Patent Appeals and Interferences decision for this instant application is governed by MPEP 1214.06. II.

Pursuant to in MPEP 1214.06. II., because dependent claim 4 was objected to prior to appeal but was not rewritten in independent form prior to appeal, claim 4 would be cancelled after the final rejection of claim 1 that it depended from was affirmed by the BPAI. After appeal, prosecution remains closed and applicant had no right to amend claim 4 unless prosecution is reopened such as by filing an RCE.

For the above-stated reasons, the request for refund of the RCE fee remains denied.

Sincerely,

Wynette Stapor  
Technical Center 2800  
571-272-1626